D.B. CRIMINAL LEAVE TO APPEAL NO.298/2006.
[STATE OF RAJ. VS. KISHAN SINGH & ORS.]

DATED : 31.01.2007

HON'BLE MR. RAJESH BALIA, J.
HON'BLE MR. CHATRA RAM JAT, J.

Mr.L.R.Upadhyaya P.P.

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Heard learned counsel for the appellant State and perused the record.

Learned Sessions Judge, Fast Track, Pali vide his judgment dated 10.08.2002 had acquitted accused persons of the offences under Sections 302/34, 308/34, 482 and 120-B, IPC.

A motor cycle driven by deceased Dala Ram who was accompanied with pillion rider Harnath P.W. 21 met with an accident with Tata Sumo. As a result of injuries sustained in the said collusion Dala Ram the driver of the Motor Cycle died and Harnath received injuries. In the FIR it was alleged that accident was deliberately caused by the respondents because of strain relationship between Dala Ramand the accused persons. It was alleged that co-accused persons having rivalry with said

Dala Ram had assaulted him in past also and for that a case was already pending against the accused persons. Due to that enmity the deliberate accident was caused.

The Trial Judge found that there is no reliable evidence on the basis of which it can be inferred beyond reasonable doubt that accident was caused deliberately to kill Dala Ram.

The main witness of the prosecution appears to be Harnath injured. From the perusal of the Harnath's statement it appears that what has been stated in the Court is all improvement over his statement given to the police soon after lodging of the FIR and sounds quite unnatural. Even the corroborative evidence produced by the prosecution by way of oral evidence produced by the prosecution by way of oral testimony P.W. 17 Shanti Lal and P.W. 19 Hastimal son of deceased is highly doubtful inasmuch as they too have greatly improved their version consistent with the statement of Harnath by stating all facts which were not disclosed before the police during the investigation at all.

In these circumstances we do not find any error in appreciation of evidence by learned Sessions Judge. Accordingly, the application for leave to appeal against the order of acquittal is rejected.

[CHATRA RAM JAT]J. **[RAJESH BALIA], J.**

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